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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

DEPARTMENT C-22

KAREN MICHELE ROZIER, AN INDIVIDUAL,

PLAINTIFF,

VS.

BANK OF AMERICA, NATIONAL ASSOCIATION
AS SUCCESSOR BY MERGER TO LASALLE BANK
NATIONAL ASSOCIATION AS TRUSTEE FOR
RAAC 2007RPI; RESIDENTIAL FUNDING
COMPANY; AND DOES 1-100;

DEFENDANTS.

CASE NO 30-2012
00601310

HONORABLE SHEILA FELL, JUDGE PRESIDING

REPORTER'S TRANSCRIPT

MAY 10, 2013

APPEARANCES OF COUNSEL:

FOR PLAINTIFF:

KAREN MICHELE ROZIER
IN PROPRIA PERSONA

FOR DEFENDANTS LUIS RODRIGUEZ AND SALLY BELTRAN:

LOCKE LORD LLP
BY: CHRISTOPHER LEE
ATTORNEY AT LAW

FOR DEFENDANT U.S. BANK NATIONAL ASSOCIATION, ETC.:

SEVERSON & WERSON
BY: YARON SHAHAM
ATTORNEY AT LAW

ALICIA DUBOIS, CSR #6164
OFFICIAL COURT REPORTER

COPY

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SANTA ANA, CALIFORNIA - ~~FRIDAY, MAY 10, 2013~~

MORNING SESSION

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
COURT:)

THE COURT: OKAY. LET'S SEE. WE HAVE ROZIER
VERSUS BANK OF AMERICA.

MRS. ROZIER: HELLO, YOUR HONOR.

THE COURT: I JUST NEED YOUR APPEARANCE FOR THE
RECORD.

MRS. ROZIER: KAREN ROZIER, PLAINTIFF.

MR. LEE: GOOD MORNING, YOUR HONOR, ~~CHRIS LEE ON~~

~~BEHALF OF DEFENDANTS SALLY BELTRAN AND LUIS RODRIGUEZ.~~

MR. SHAHAM: GOOD MORNING, YOUR HONOR, ~~YARON SHAHAM~~
~~ON BEHALF OF DEFENDANT U.S. BANK~~, ERRONEOUSLY SUED AS
BANK OF AMERICA, ~~CMAC MORTGAGE, ITS SERVICES, AND~~
~~RESIDENTIAL FUNDING COMPANY~~, AND THAT'S THE SHORT
VERSION.

THE COURT: OKAY. THANK YOU. ALL RIGHT. AND DID
YOU ALL SEE THE TENTATIVE?

MR. SHAHAM: YES, YOUR HONOR.

MR. LEE: YES, YOUR HONOR.

MR. SHAHAM: I WAS HOPING I COULD GO FIRST, BECAUSE
I THINK THAT MAYBE I COULD CLEAR SOME THINGS UP AND MAKE

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1 THINGS A LOT CLEANER.

2 MRS. ROZIER: YOUR HONOR, I DOUBT THAT, BECAUSE
3 THEY --

4 THE COURT: WELL, LET HIM TRY.

5 MRS. ROZIER: OKAY.

6 MR. SHAHAM: I THINK I CAN TRY.

7 I DON'T HAVE A PROBLEM WITH THE TENTATIVE
8 RULING, YOUR HONOR, BUT I THINK THAT, IN REGARD TO THE
9 FACT THAT THE CASE HAS THREE PLAINTIFFS, ONE OF WHICH IS
10 KAREN ROZIER, HER HUSBAND, DAVID ROZIER, AND THE TRUST --

11 ~~THE COURT: I ONLY HAVE ONE PLAINTIFF.~~

12 MR. SHAHAM: I'M SPEAKING CASE NUMBER
13 2012-00601310.

14 ~~THE COURT: YES. I ONLY HAVE ONE PLAINTIFF.~~

15 MR. SHAHAM: I CAN SHOW YOU THE SECOND-AMENDED
16 COMPLAINT, YOUR HONOR. THERE ARE THREE PLAINTIFFS IN
17 THAT CASE, YOUR HONOR.

18 MRS. ROZIER: IF I MAY, YOUR HONOR. WE HAD THIS
19 DISCUSSION THE LAST TIME WE WERE HERE.

20 THE COURT: OKAY.

21 ~~MRS. ROZIER, AND WE'VE ALSO HAD THIS DISCUSSION IN~~
22 ~~FRONT OF JUDGE HUNT AND IN FRONT OF THE CLERK, AND EVEN~~
23 ~~IF YOU GO IN THE SYSTEM THERE IS ONLY ONE PLAINTIFF IN~~
24 ~~THIS CASE, AND THAT IS MYSELF. HE IS NOT REPRESENTING~~
25 ~~ANY DEFENDANT IN THIS CASE. I AM SUING BANK OF AMERICA,~~
26 ~~I AM NOT SUING ANY OF HIS DEFENDANTS. AND HE IS NOT~~

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1 ~~REPRESENTING ANY DEFENDANTS IN THIS CASE. AND THAT WAS~~
2 ~~MY WHOLE CONCERN IS WHY THEY DEMURRED WHEN I'M NOT SUING~~
3 ~~ANY PARTIES THAT THEY REPRESENT.~~

4 MR. SHAHAM: YOUR HONOR, IF I CAN CONTINUE AGAIN.

5 THE COURT: GO AHEAD.

6 MR. SHAHAM: THE SECOND-AMENDED COMPLAINT THAT IS
7 FILED WITH THE COURT --

8 THE COURT: YES.

9 MR. SHAHAM: -- THAT IS ON THE RECORD, HAS THREE
10 PLAINTIFFS. AND IF YOU WOULD LIKE I CAN SHOW IT TO YOU
11 OR YOU CAN PULL IT UP, I KNOW YOU GUYS HAVE ACCESS.

12 THE CLERK: YOUR HONOR, I'M PULLING UP THE
13 COMPLAINT NOW. I HAVE THE SECOND AMENDED COMPLAINT. THE
14 ONE WE SPOKE ABOUT WAS NUMBER 13.

15 THE COURT: THIS IS NUMBER 12, 01310. I SEE, OKAY,
16 THERE ARE ADDITIONAL PLAINTIFFS LISTED ON THIS ONE.

17 *Ms. Rozler* ~~SUMMARY~~ YES. WE HAD A MEETING AND IT WAS
18 RULED THAT WE COULD -- BECAUSE A TRIAL HAD ALREADY BEEN
19 SET, ~~JUDGE HUNT GAVE US THE OPTION OF WHETHER WE WERE~~
20 ~~GOING TO KEEP THE TRIAL DATE OR ADD THE ADDITIONAL~~
21 ~~PLAINTIFFS AND I CHOSE NOT TO ADD THE PLAINTIFF. SO WE~~
22 ~~WENT BACK TO ONLY ONE PLAINTIFF, WE KEPT THE TRIAL DATE,~~
23 ~~AND U.S. BANK WAS NEVER ADDED.~~

24 SO IN THE ORIGINAL COMPLAINT U.S. BANK WAS A
25 PARTY. I DROPPED THEM AS A PARTY WHEN THE DECISION
26 WAS -- WHEN THE SALE WAS REVERSED. U.S. BANK IS NOT A

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1 PARTY. THEN WE ORIGINALLY TRIED TO ADD ADDITIONAL
2 DEFENDANTS AND ~~JUDGE HUNT SAID THAT BECAUSE WE HAD~~
3 ~~ALREADY HAD A TRIAL DATE SET, THAT I COULDN'T ADD ANY~~
4 ~~OTHER -- I CAN'T ADD DAVID AND THE TRUST. THE TRUST~~
5 ~~BECAUSE IT WASN'T PROPERLY REPRESENTED AND DAVID, IF I~~
6 ~~ADDED HIM, THAT WE WOULD HAVE TO CHANGE THE TRIAL DATE.~~

7 WE AGREED NOT TO CHANGE THE TRIAL DATE; ~~THAT IT~~
8 ~~WAS JUST KAREN GOING TO TRIAL AGAINST BANK OF AMERICA~~
9 ~~WE ALL AGREED TO THAT. AND THEN THESE GUYS QUICKLY CAME~~
10 ~~IN AND MOVED IT FROM JUDGE HUNT AND THEN ALSO DEMURRED,~~
11 ~~PRETENDING AS IF ALL OF THOSE AGREEMENTS NEVER HAPPENED.~~

12 THE COURT: BUT THE RESULT IS THE SAME. WHAT IS
13 THE PROBLEM?

14 MR. SHAHAM: WELL, I THINK WHAT I WANT TO DO HERE
15 IS, IF THE PLAINTIFF ALLOW ME AND THE COURT ALLOW ME, I
16 THINK WHAT WE CAN DO HERE IS ~~CLEAN UP A LOT OF STUFF BY~~
17 ~~SIMPLY HAVING PLAINTIFF DAVID ROZIER AND PLAINTIFF THE~~
18 ~~TRUST, WHO DAVID ROZIER IS THE TRUSTEE OF, SIMPLY FILE A~~
19 ~~REQUEST FOR DISMISSAL OF THE SAME DEFENDANTS THAT KAREN~~
20 ~~ROZIER WAS DISMISSED IN THIS 2012 --~~

21 THE COURT: SO WHAT YOU'RE SAYING IS THAT BY THIS
22 SECOND-AMENDED COMPLAINT YOU'VE STILL GOT OTHER PARTIES
23 WHO HAVE NOT DISMISSED YOUR CLIENT.

24 MR. SHAHAM: EXACTLY, YOUR HONOR, EXACTLY. SO IF
25 YOU WOULDN'T MIND, AND IF THE PLAINTIFFS WOULDN'T MIND, I
26 THINK WE CAN RESOLVE A LOT OF THINGS HERE AND MAKE THINGS

After the
Judge
shopping

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1 A WHOLE LOT EASIER FOR THE RECORD.

2 THE COURT: WELL, LET ME ASK HER.

3 MRS. ROZIER: WELL, ~~FIRST OF ALL, THE PLAINTIFFS --~~
4 ~~NONE OF THE PLAINTIFFS ARE SUING U.S. BANK.~~

5 ~~THE COURT: BUT ACCORDING TO WHAT THE PLEADINGS~~
6 ~~LOOK LIKE, IT APPEARS -- I DON'T SEE U.S. BANK ON HERE.~~

7 ~~MRS. ROZIER: EXACTLY.~~

8 ~~THE COURT: ON THE SECOND AMENDED COMPLAINT.~~

9 ~~MRS. ROZIER: OR THE FIRST AMENDED COMPLAINT.~~

10 THE COURT: AND I SEE LUIS RODRIGUEZ AND I SEE
11 SALLY BELTRAN AS DEFENDANTS, ~~BUT I DON'T SEE U.S. BANK.~~
12 ~~DID U.S. BANK TAKE -- SUBSTITUTE FOR SOMEBODY ELSE?~~

13 MR. SHAHAM: YES, YOUR HONOR. WHAT HAS HAPPENED,
14 THE SUBJECT LOAN WAS ASSIGNED, THERE WAS A REPORTED
15 ASSIGNMENT OF THE DEED OF TRUST. IT'S WITHIN OUR REQUEST
16 FOR JUDICIAL NOTICE. THERE'S A RECORDED ASSIGNMENT OF
17 THE DEED OF TRUST BY BANK OF AMERICA TO U.S. BANK.

18 THE COURT: I SEE. SO BANK OF AMERICA IS NOT
19 LASALLE BANK?

20 MR. SHAHAM: THERE HAS BEEN -- IT'S -- AGAIN I'M
21 GIVING YOU SHORT NAME VERSIONS OF WHAT'S GOING ON HERE.

22 MRS. ROZIER: NO, YOUR HONOR.

23 THE COURT: JUST A MINUTE.

24 MR. SHAHAM: I CAN SHOW YOU WITHIN OUR PLEADINGS,
25 YOUR HONOR, THE REQUEST FOR JUDICIAL NOTICE, THE
26 ASSIGNMENT OF THE DEED OF TRUST FOR THE SUBJECT LOAN WAS

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1 ASSIGNED TO U.S. BANK. THEREFORE --

2 THE COURT: BY BANK OF AMERICA?

3 MR. SHAHAM: CORRECT, YOUR HONOR.

4 AND THAT IS WHY WE HAVE MADE AN APPEARANCE IN
5 THIS CASE AS U.S. BANK ERRONEOUSLY SUED AS BANK OF
6 AMERICA.

7 THE COURT: OKAY. GOT IT.

8 MR. SHAHAM: SO IF IT IS THE INTENT OF THE
9 PLAINTIFFS -- AND THERE ARE, WHETHER THE PLAINTIFFS LIKE
10 IT OR NOT, ~~THERE ARE THREE NAMED PLAINTIFFS ON THE SECOND~~
11 ~~AMENDED COMPLAINT~~ ---

12 THE COURT: ~~THERE ARE~~

13 MR. SHAHAM: IF THEY WANT TO CLEAN THAT UP, THEN
14 LET'S -- WHY DON'T WE JUST TAKE FIVE, TEN MINUTES HERE,
15 BEFORE WE GO THROUGH EVERYTHING ELSE, AND THEY CAN
16 DISMISS WHOEVER THEY WANT TO DISMISS AND WE CAN CLEAN UP
17 ALL THIS STUFF, AND THEN WE CAN PROCEED WITH THE REST OF
18 THIS.

19 LIKE I SAID, I DON'T HAVE A PROBLEM WITH THE
20 REST OF THE TENTATIVE RULING, I DO HAVE AN ISSUE WITH YOU
21 HAVE AN -- ON THE NUMBER 13 YOU SAY YOU'RE GOING TO
22 STRIKE THE FIRST AMENDED COMPLAINT, WHICH THE QUESTION I
23 HAVE FOR THAT IS IF YOU'RE GOING TO STRIKE THAT
24 COMPLAINT, WELL, THEN YOU HAVE TO HAVE A -- TO HAVE A
25 CASE YOU HAVE TO HAVE A COMPLAINT. SO IF YOU'RE GOING TO
26 STRIKE THAT COMPLAINT WE CAN'T HAVE A CASE, THEN THERE'S

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1 NOTHING TO CONSOLIDATE, YOUR HONOR.

2 MRS. ROZIER: THERE STILL A COMPLAINT. IF YOU
3 STRIKE THE FIRST AMENDED COMPLAINT THERE IS A COMPLAINT.

4 THE COURT: NO. I SEE WHAT HE'S SAYING, THOUGH. I
5 WAS STRIKING THAT COMPLAINT, SO THERE'S NOTHING TO
6 CONSOLIDATE.

7 MR. SHAHAM: EXACTLY, YOUR HONOR.

8 THE COURT: EXCEPT THAT EVERYBODY WHO IS INVOLVED
9 IN THIS CASE NEEDS TO BE IN ONE LAWSUIT.

10 MR. SHAHAM: EXACTLY.

11 MRS. ROZIER: IF I MAY, YOUR HONOR, BECAUSE HE SAID
12 HE'S TRYING TO CLEAR THINGS UP, BUT HE'S NOT. HE'S
13 TRYING TO CONFUSE YOU. AND WE WENT THROUGH THIS IN GREAT
14 LENGTHS WITH JUDGE HUNT, WHICH IS WHY --

15 THE COURT: WELL, JUST TELL ME, OKAY?

16 MRS. ROZIER: I -- ~~THERE'S NO DOUBT I SIGNED A NOTE~~
17 ~~ON DECEMBER 23RD, 2005. NEVER CONTENDED THAT, I~~
18 ~~RESCINDED THAT NOTE ON FEBRUARY 28TH. AND I'VE SHOWN~~
19 ~~THAT IN EVIDENCE. I SIGNED A BRAND-NEW NOTE ON~~
20 ~~JUNE 1ST, 2006. U.S. BANK HAS EVIDENCE OF IT, THEY HAVE~~
21 ~~ALL OF THE DISCLOSURE STATEMENTS. THE CONCERN -- THEY~~
22 ~~THEN ATTEMPTED TO FORECLOSE SUBJECT TO THE RESCINDED NOTE~~
23 ~~AND RESCINDED DEED OF TRUST. WHEN I CALLED THEM ON IT~~
24 ~~AND I KEPT SAYING, HEY, GUYS, I AM ACTUALLY PAYING MY~~
25 ~~NOTE, I'M PAYING MY DUE NOTE --~~

26 THE COURT: OKAY. I DON'T WANT TO HEAR -- STOP FOR

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1 A MINUTE.

2 MRS. ROZIER: OKAY, I'LL STOP.

3 THE COURT: STOP FOR A MINUTE. I DON'T WANT TO
4 HEAR THE CASE. I DON'T WANT TO HEAR THE FACTS OF THE
5 CASE. I WANT TO KNOW WHAT THE CAPTION SHOULD SAY. AND
6 IF YOU WILL SIT DOWN WITH THEM FOR JUST TWO MINUTES AND
7 CROSS OUT AND REDO OR WHATEVER, I NEED TO KNOW WHICH
8 PARTIES I'M DEALING WITH.

9 MRS. ROZIER: ~~YOU HAVE TWO DIFFERENT CASES. BANK~~
10 ~~OF AMERICA ACTUALLY FORECLOSED ON MY HOUSE --~~

11 THE COURT: OKAY. WOULD YOU --

12 MRS. ROZIER: -- ~~NINE MONTHS AFTER THEY SOLD THE~~
13 ~~HOUSE TO U.S. BANK.~~

14 THE COURT: OKAY.

15 MRS. ROZIER: ~~WHICH IS WHY I'M SUING BANK OF~~
16 ~~AMERICA. IT HAD NOTHING TO DO WITH U.S. BANK.~~

17 THE COURT: OKAY. IF YOU WILL JUST SIT DOWN WITH
18 THEM FOR TWO MINUTES.

19 MRS. ROZIER: OKAY.

20 THE COURT: AND LET'S FIGURE OUT WHO BELONGS IN
21 THIS, BECAUSE I'M GOING TO GO THROUGH THIS EVERY TIME I
22 CALL THE CASE.

23 MRS. ROZIER: I WILL DO THAT, YOUR HONOR.

24 MR. SHAHAM: THAT'S THE PROBLEM, YOUR HONOR.

25 YOUR HONOR, BY THE WAY, IF I COULD HAVE THAT
26 COVER SHEET THAT MR. CLERK PRINTED OUT FOR YOU, WE CAN GO

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1 THROUGH IT WITH THE PLAINTIFFS. I WOULD REALLY
2 APPRECIATE THAT, YOUR HONOR.

3 MRS. ROZIER: I'LL ALSO GO THROUGH WHAT THE CIVIL
4 COURT SHOWED.

5 THE COURT: JUST A MINUTE.

6 MR. SHAHAM: YOUR HONOR, WE CAN JUST STAND RIGHT
7 HERE.

8 THE COURT: ALL RIGHT, I'M GOING TO LET YOU DO
9 THAT. IF YOU WILL GO OUT FOR JUST A MINUTE AND I CAN
10 CALL THE OTHER -- THE REMAINING CASE.

11 MRS. ROZIER: OKAY.

12 MR. LEE: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. LET'S -- AND I'LL RECALL
14 THIS ONE AGAIN.

15 *****

16 (OTHER MATTERS HEARD BUT NOT TRANSCRIBED.)

17 *****

→ 18 *Judge Fell*
18 ~~MRS. ROZIER~~: OKAY. LET'S CALL ROZIER VERSUS BANK
19 OF AMERICA.

20 MR. SHAHAM: GOOD MORNING ONCE AGAIN, YOUR HONOR.

21 MRS. ROZIER: GOOD MORNING AGAIN, YOUR HONOR.

22 MR. LEE: GOOD MORNING, YOUR HONOR.

23 THE COURT: OKAY.

24 MR. SHAHAM: IF I MAY HAND TO THE CLERK -- IF I MAY
25 APPROACH I THINK WHAT YOU WILL SEE THERE IS WE HAVE
26 SIMPLIFIED WHO THE PLAINTIFF, SINGULAR, SHOULD BE IN THIS

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1 CASE.

2 THE COURT: OKAY.

3 MR. SHAHAM: AND WHO THE ONLY TWO REMAINING
4 DEFENDANTS WILL BE IN THIS CASE.

5 MR. LEE: GOING FORWARD.

6 THE COURT: EXCELLENT.

7 MR. SHAHAM: GOING FORWARD.

8 THE COURT: OKAY. "BY MERGER TO LASALLE BANK,"
9 OKAY.

10 MRS. ROZIER: AND IF I MAY, YOUR HONOR, ~~THAT'S~~
11 ~~SEPARATE -- WE DID NOT DO THAT FOR THE SEPARATE CASE~~

12 THE COURT: I UNDERSTAND, THAT'S JUST THIS ONE
13 CASE.

14 MRS. ROZIER: OKAY.

15 THE COURT: HOWEVER -- OKAY. ~~THE OTHER CASE~~
16 ~~PROBABLY WON'T SURVIVE~~ THERE WON'T BE ANY NEED TO --

17 MRS. ROZIER: BUT THE ISSUE WAS -- ON THE SECOND
18 CASE IT WAS THE SAME ISSUE WITH THE DEFENDANTS. ~~DAVID~~
19 ~~ROZIER WAS A DEFENDANT -- A PLAINTIFF BECAUSE HE IS THE~~
20 ~~ACTUAL BUILDER OF THE HOUSE, AND JUDGE HUNT RULED THAT HE~~
21 ~~DID HAVE STANDING TO MAKE THOSE BECAUSE HE DID --~~

22 THE COURT: OKAY. WELL, YEAH, LET ME JUST STOP
23 YOU. ~~ON NUMBER 13 DO WE HAVE OTHER~~ -- WHAT DOES THE
24 CAPTION LOOK LIKE ON THAT ONE?

25 THE CLERK: MR. ROZIER AS TRUSTEE, YOUR HONOR.

26 THE COURT: IT'S ONLY ONE PARTY. IT'S ONLY DAVID

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1 ROZIER FOR THE -- TRUSTEE FOR THE DAVID BEAR --

2 MR. SHAHAM: THAT'S CORRECT, YOUR HONOR.

3 MRS. ROZIER: ~~BUT ACCORDING TO THE CLERK~~

4 ~~DOWNSTAIRS, AND ALSO ACCORDING TO THE ONLINE SYSTEM,~~

5 ~~KAREN AND DAVID ARE BOTH STILL PARTIES OF THIS COMPLAINT,~~

6 IT WAS THE SAME ISSUE. SO WE WOULD LIKE TO AMEND IT

7 BECAUSE DAVID IS ACTUALLY THE BUILDER OF THE HOUSE, HE

8 ~~WAS THE UNCOMPENSATED BUILDER AND WAS GIVEN STANDING TO~~

9 ~~SUE U.S. BANK, BECAUSE MY NAME IS ON THE NOTE, WHICH THEY~~

10 ~~ARE OFFERING, BECAUSE WE KNOW IT'S A PROVEN FALSE NOTE,~~

11 ~~IT'S NOT AN ACTUAL NOTE.~~

12 THE COURT: OKAY. STOP JUST FOR A MINUTE.

13 THE ONLY PLAINTIFF THAT I HAVE ON HERE IS DAVID

14 EUGENE ROZIER. IF THE FACTS ARE THE SAME ON THIS SHOULD

15 HE NOT BE PART OF THE OTHER SUIT?

16 MRS. ROZIER: ~~THE FACTS ARE DIFFERENT. THE ONE~~

17 ~~CASE I WAS SUING BANK OF AMERICA FOR SOMETHING THAT~~

18 ~~HAPPENED LAST YEAR. ON THE SECOND CASE, AS THE BUILDER,~~

19 ~~HE'S SUING MULTIPLE ENTITIES BECAUSE TO CLEAR -- TO~~

20 ~~CANCEL THE VOIDED DEED OF TRUST AND TO MAKE THEM PROVE UP~~

21 ~~THE DEED OF TRUST. THAT'S COMPLETELY SEPARATE ITEMS THAT~~

22 ~~INVOLVE COMPLETELY DIFFERENT PARTIES.~~

23 THE COURT: OKAY. WHEN I CALL THAT CASE I'LL HEAR

24 WHAT HE HAS TO SAY. ALL RIGHT?

25 MRS. ROZIER: THANK YOU, YOUR HONOR.

26 THE COURT: ON THIS ONE WE HAVE A WORKING

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12

1 COMPLAINT.

2 MR. SHAHAM: YES, YOUR HONOR.

3 THE COURT: ~~YOU ARE NOT PART OF IT.~~

4 MR. SHAHAM: ~~MY CLIENT IS A PART OF IT. AS WE'VE~~
5 ~~EXPLAINED, YOUR HONOR, U.S. BANK IS ERRONEOUSLY SUED AS~~
6 ~~BANK OF AMERICA BASED ON THE FACT THAT THERE IS AN~~
7 ~~ASSIGNMENT OF THE DEED OF TRUST FOR THE SUBJECT LOAN~~
8 ~~WHERE BANK OF AMERICA HAS ASSIGNED THE LOAN, THE~~
9 ~~BENEFICIAL INTEREST OF THE DEED OF TRUST, TO U.S. BANK.~~

10 THE COURT: ~~OKAY. BUT THEY DIDN'T CHOOSE TO SUE~~
11 ~~U.S. BANK.~~

12 MR. SHAHAM: TECHNICALLY, NO. HOWEVER, YOUR HONOR,
13 THE PROPER PARTY THAT IS SUPPOSED TO BE BEFORE THE COURT
14 AND PER THE TITLE DOCUMENTS THAT THE COURT GRANTED THE
15 REQUEST FOR JUDICIAL NOTICE THAT WAS CONCURRENTLY FILED
16 WITH THIS DEMURRED ~~CLEARLY SHOWS THAT BANK OF AMERICA~~
17 ~~ASSIGNED THE BENEFICIAL INTEREST IN THE DEED OF TRUST TO~~
18 ~~U.S. BANK. AND, THEREFORE, WE HAVE APPEARED AS U.S. BANK~~
19 ~~ERRONEOUSLY SUED AS BANK OF AMERICA.~~

20 THE COURT: OKAY. AND ~~THE ACTIONS THAT ARE BEING~~
21 ~~SUED UPON HAPPENED BEFORE OR AFTER THE MERGER?~~ AND DOES
22 IT MATTER?

23 MR. SHAHAM: I DON'T EVEN THINK IT MATTERS, BECAUSE
24 NOW, BASED ON WHAT YOU HAVE HERE IS, IF THE COURT
25 FOLLOWED ITS TENTATIVE RULE, THE REMAINING CLAIM WILL BE
26 FOR WRONGFUL FORECLOSURE. ~~WELL, THE PERSON THAT THE~~

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1 ~~ENTITY THAT HAS THE CURRENT INTEREST IN THE LOAN THAT SHE~~
2 ~~IS CLAIMING THERE'S A PROBLEM WITH IS U.S. BANK.~~ WHETHER
3 SHE LIKES THAT OR NOT, THAT IS THE ACTUAL TRUTH, YOUR
4 HONOR.

5 MRS. ROZIER: NO, IT'S NOT.

6 MR. SHAHAM: AND SO ~~IF THE PLAINTIFF WANTS TO GO~~
7 ~~FORWARD AND ACTUALLY WANTS A TRUE RESOLUTION OF THIS~~
8 ~~CASE, THE PROPER DEFENDANT IS U.S. BANK.~~

9 AND AGAIN, THAT IS CLEARLY IN THE REQUEST FOR
10 JUDICIAL NOTICE, THERE'S AN ASSIGNMENT OF THE DEED OF
11 TRUST. I CAN SHOW IT TO YOUR HONOR AGAIN.

12 THE COURT: OKAY. SO I UNDERSTAND --

13 MR. SHAHAM: THANK YOU.

14 THE COURT: -- IF SHE WERE TO -- ~~IF MRS. ROZIER~~
15 ~~WERE TO OBTAIN A JUDGMENT IN THIS CASE FOR WHATEVER FACTS~~
16 ~~SHE IS ALLEGING AND SHE WAS SUCCESSFUL IN THAT, WOULD~~
17 ~~LASALLE BANK OR, I'M SORRY, U.S. BANK WOULD THEN BE~~
18 ~~OBLIGATED TO HER?~~

19 MR. SHAHAM: YES, YOUR HONOR. WE'VE APPEARED
20 BEFORE THE COURT, WE'VE MADE MULTIPLE APPEARANCES, AS YOU
21 KNOW. WE FILED A DEMURRER. WE ACTUALLY HAD A DEMURRER
22 RULED ON BY JUDGE HUNT.

23 MRS. ROZIER: AND IT WAS OVERRULED.

24 THE COURT: STOP.

25 MR. SHAHAM: SO WE ARE BEFORE THE COURT, YOUR
26 HONOR. WE HAVE -- LET ME PUT IT THIS WAY, YOUR HONOR:

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1 WE HAVEN'T TRIED TO HIDE FROM THIS CASE SIMPLY BECAUSE
2 WE'RE NOT ON THE CAPTION. WE'VE ACTUALLY COME BEFORE THE
3 COURT TO TELL THE COURT TO SAY, LOOK, YOUR HONOR, WE'RE
4 THE PROPER DEFENDANT. LET US BE IN FRONT OF THIS COURT,
5 WE HAVE BEEN IN FRONT OF THE COURT.

6 AND SO, BECAUSE WE'RE THE PROPER DEFENDANT NOW,
7 WE CAN TRY TO RESOLVE THIS CASE OR AT LEAST DEFEND THE
8 PROPER DEFENDANT IN THE CASE. WE'RE NOT TRYING TO HIDE,
9 YOUR HONOR, WE'RE RIGHT HERE.

10 THE COURT: OKAY. IF YOU WERE TO CHANGE YOUR NAME
11 TO KAREN EILEEN ROZIER, YOU WOULD STILL HAVE THE SAME
12 LAWSUIT. RIGHT?

13 MRS. ROZIER: WELL, THERE'S -- THAT'S A GOOD -- I'M
14 GLAD YOU SAID THAT, BECAUSE THEY ACTUALLY -- U.S. BANK
15 IS -- WHAT THEY'RE SAYING DOESN'T MAKE SENSE. THE
16 JUDICIAL NOTICE --

17 THE COURT: NO, IT DOES MAKE SENSE.

18 MRS. ROZIER: THE NOTICE OF RECISION OF TRUSTEE'S
19 SALE SAYS THAT BANK OF AMERICA CLAIMED THAT THEY WERE THE
20 BENEFICIARY OF RECORD ON OCTOBER 4TH. SO NOW BANK OF
21 AMERICA, WHICH IS A COMPLETELY SEPARATE ENTITY, THEY HAD
22 TO KNOW IN SEPTEMBER THAT THEY HAD ASSIGNED THE NOTE TO
23 U.S. BANK. SO IN SEPTEMBER BANK OF AMERICA HAD TO KNOW
24 THEY WEREN'T THE BENEFICIARY.

25 THE COURT: BUT ~~THEY WILL REMAIN LIABLE TO YOU IF~~
26 ~~YOU ARE SUCCESSFUL AGAINST BANK OF AMERICA~~

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1 MRS. ROZIER: BUT ~~IT WAS BANK OF AMERICA THAT PUT~~
2 ~~THE NOTES ON MY DOOR THAT SAID BANK OF AMERICA DID THESE~~
3 ~~THINGS TO ME.~~

4 THE COURT: ~~HE'S WILLING TO STAND BEHIND WHATEVER~~
5 ~~BANK OF AMERICA DID OR DIDN'T DO OR DID PROPERLY OR~~
6 ~~IMPROPERLY. U.S. BANK IS WILLING TO STAND UP AND SAY, I~~
7 ~~AM IN THE SHOES OF BANK OF AMERICA.~~

8 MRS. ROZIER: WELL, IF U.S. BANK -- WHAT U.S. BANK
9 IS SAYING IS THAT BANK OF AMERICA WAS NOT WRONG TO
10 RESCIND OR --

11 THE COURT: WE'RE NOT EVEN THAT FAR.

12 MRS. ROZIER: OKAY.

13 THE COURT: WE'RE JUST NOT THERE. WE'RE JUST
14 DECIDING WHICH PARTIES CAN COME BEFORE THIS COURT AND
15 ARGUE. AND ~~HE'S SAYING, TO THE EXTENT THAT YOU HAVE A~~
16 ~~CLAIM AGAINST BANK OF AMERICA, HE IS BANK OF AMERICA WITH~~
17 ~~A DIFFERENT NAME.~~

18 MRS. ROZIER: ~~AND I'M SAYING THAT HE IS NOT BANK OF~~
19 ~~AMERICA WITH A DIFFERENT NAME; THAT THEY WERE COMPLETELY~~
20 ~~DIFFERENT ENTITIES; THAT IT IS BANK OF AMERICA THAT DID~~
21 ~~THIS ONE THING.~~

22 THE COURT: ~~MAYBE AT THAT TIME.~~

23 MRS. ROZIER: WELL, IT WAS A COMPLETELY DIFFERENT
24 ENTITY AT THAT TIME, YES.

25 THE COURT: HOWEVER, ~~HE JUST ASSUMED ALL~~
26 ~~RESPONSIBILITY AND LIABILITY AND ALL THE GOOD STUFF AND~~

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16

1 ~~THE BAD STUFF THAT BANK OF AMERICA MAY HAVE DONE AT THAT~~
2 ~~TIME.~~

3 MRS. ROZIER: I'M NOT HEARING THAT. MAYBE I NEED
4 TO UNDERSTAND. WHAT I'M HEARING HIM SAYING IS THAT,
5 BECAUSE U.S. BANK WAS THE ASSIGNEE OF RECORD IN
6 JANUARY --

7 THE COURT: WE'RE NOT TALKING DATES, OKAY.

8 MRS. ROZIER: BUT WHAT I'M HEARING HIM SAYING IS
9 THAT BANK OF AMERICA HAD NOTHING TO DO WITH THE OCTOBER
10 FORECLOSURE.

11 THE COURT: NO. WHAT HE IS SAYING IS HE
12 ESSENTIALLY STEPS IN THE SHOES OF BANK OF AMERICA; AND
13 WHATEVER BANK OF AMERICA DID OR DIDN'T DO, U.S. BANK IS
14 NOW STEPPING UP TO THE PLATE FOR.

15 IS THAT CORRECT?

16 MR. SHAHAM: CORRECT, YOUR HONOR. LIKE I SAID
17 BEFORE, BENEFICIAL INTEREST IN THE DEED OF TRUST ON THE
18 SUBJECT LOAN WAS CLEARLY ASSIGNED TO U.S. BANK AND,
19 THEREFORE, U.S. BANK IS THE PROPER DEFENDANT. AND
20 BECAUSE IT'S NOT NAMED ON THE CAPTION, WE HAD TO APPEAR
21 AS U.S. BANK ERRONEOUSLY SUED AS BANK OF AMERICA.

22 THE COURT: OKAY. WHEN YOU SAY THE BENEFICIAL
23 INTEREST, DOES THIS SHIELD YOU FROM ANY LIABILITY?

24 MR. SHAHAM: I DON'T THINK IT DOES, YOUR HONOR.

25 THE COURT: OKAY. I JUST WANT TO MAKE SURE WE'VE
26 GOT ALL THE PARTIES HERE, BECAUSE I DON'T WANT TO HAVE

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17

1 THE SAME FIGHT LATER.

2 MR. SHAHAM: NO, I DON'T EITHER, YOUR HONOR.

3 AND BY THE WAY, YOUR HONOR, BANK OF AMERICA HAS
4 RETAINED ITS OWN COUNSEL AND HAS FILED A DEMURRER TO THIS
5 SECOND AMENDED COMPLAINT. I BELIEVE THE HEARING IS
6 MAY 29TH. I THINK IT'S --

7 MR. LEE: SOMETIME LATER THIS MONTH, YOUR HONOR.

8 MR. SHAHAM: YEAH, IT'S MAY 29TH, YOUR HONOR.

9 AND OBVIOUSLY THEY'RE NOT HERE BECAUSE THEY'RE
10 NOT -- THEIR DEMURRER IS NOT IN FRONT OF THE COURT. BUT
11 THE COURT WILL EVENTUALLY READ THAT DEMURRER, AND WHAT
12 THAT DEMURRER BASICALLY SAYS IS --

13 THE COURT: IT'S NOT US.

14 MR. SHAHAM: WE DON'T HAVE ANY INTEREST IN THIS
15 PROPERTY ANYMORE.

16 MRS. ROZIER: YOU SEE, YOUR HONOR, THAT'S EXACTLY
17 WHAT THEY SAY. THEY SAY, WE HAD NO INTEREST IN THIS
18 PROPERTY ON THIS DATE.

19 THE COURT: BUT THAT'S NOT THE POINT. THE POINT IS
20 WHO IS GOING TO ANSWER TO YOU IF YOU WERE SUCCESSFUL IN
21 YOUR LAWSUIT. AND U.S. BANK IS SAYING, WE ARE
22 RESPONSIBLE. WE TOOK OVER BANK OF AMERICA -- THIS LOAN
23 FROM BANK OF AMERICA, WE TAKE THE GOOD AND THE BAD WITH
24 IT.

25 MRS. ROZIER: AND WHAT I'M SAYING IS I SHOULD BE
26 SUING BOTH, BECAUSE BANK OF AMERICA --

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18

1 THE COURT: NO, NO.

2 MRS. ROZIER: BUT THEY'RE NOT SAYING THAT, WE TAKE
3 RESPONSIBILITY FOR WHAT BANK OF AMERICA DID THIS DAY.

4 THE COURT: YES, THEY ARE.

5 MRS. ROZIER: OKAY. THIS TRUST DEED RIGHT NOW, MY
6 PROPERTY, IF YOU GO THROUGH THE RECORDER'S OFFICE RIGHT
7 NOW, MY PROPERTY IS RECORDED AS BEING OWNED BY BANK OF
8 AMERICA.

9 THE COURT: OKAY.

10 MRS. ROZIER: THESE GUYS.

11 THE COURT: DOES U.S. BANK FILE ANYTHING OR RECORD
12 ANYTHING AFTER IT TAKES OVER ALL THESE -- THE BENEFICIAL
13 INTEREST IN ALL OF THESE DEEDS OF TRUST?

14 MR. SHAHAM: YES. THROUGH ITS FORECLOSURE TRUSTEE
15 AND SERVICING AGENT, IT ACTS REGARDING THE SUBJECT
16 PROPERTY.

17 AS TO WHAT SHE IS REFERRING TO IN A TRUSTEE DEED
18 UPON SALE, YOUR HONOR, ~~A FORECLOSURE SALE DID OCCUR IN~~
19 ~~THE FALL OF LAST YEAR. IT WAS A MISTAKE, AND THERE IS A~~
20 ~~RECORDED REGISTRATION OF THAT SALE --~~

21 THE COURT: OKAY.

22 MR. SHAHAM: -- AND, THEREFORE, TITLE IS CURRENTLY
23 STILL HELD -- ACTUALLY NOT BY KAREN ROZIER OR DAVID
24 ROZIER, IT IS PROPERLY BEING HELD BY THE TRUST, DUE TO
25 THE FACT THAT THERE WAS I BELIEVE A QUITCLAIM DEED SIGNED
26 BY MR. AND/OR MRS. ROZIER TO THE TRUST.

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19

1 THE COURT: OKAY.

2 MRS. ROZIER: IT'S ACTUALLY OWNED BY THE BANK RIGHT
3 NOW.

4 THE COURT: I DON'T REALLY CARE.

5 MRS. ROZIER: BY BANK OF AMERICA.

6 THE COURT: I DON'T REALLY CARE AT THIS POINT
7 BECAUSE THE SALE WAS RESCINDED. SO THAT SALE ESSENTIALLY
8 DIDN'T HAPPEN.

9 MRS. ROZIER: IT --

10 THE COURT: IT MAY HAVE HAPPENED, BUT THE EFFECT OF
11 IT IS NO LONGER CURRENT.

12 RIGHT NOW WHAT THIS GENTLEMAN IS SAYING IS THAT
13 WHATEVER BANK OF AMERICA DID OR DIDN'T DO, U.S. BANK IS
14 WILLING TO STEP UP TO THE PLATE FOR THE GOOD AND FOR THE
15 BAD.

16 MR. LEE: MAY I BE HEARD, YOUR HONOR, WITH RESPECT
17 TO MY CLIENT.

18 THE COURT: YOU'RE HERE, TOO. YES.

19 MR. LEE: WELL, NOT ANYMORE.

20 THE ONLY THING I WANT IS FOR THE RECORD TO BE
21 CLEAR THAT THE SECOND-AMENDED COMPLAINT IS THE OPERATIVE
22 COMPLAINT; THAT THE COURT RECOGNIZES THAT THERE WERE
23 THREE PLAINTIFFS NAMED IN THAT COMPLAINT; THAT MY
24 CLIENTS, SALLY BELTRAN AND LUIS RODRIGUEZ, WERE
25 DEFENDANTS IN THAT ACTION, IN THIS ACTION, UP UNTIL
26 TODAY, UP UNTIL THIS COURT HAS NOW GRANTED WHAT APPEARS

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20

1 TO BE A STIPULATION, A STIPULATION -- A VOLUNTARY
2 DISMISSAL AS TO MY CLIENTS; AND ON A GOING-FORWARD BASIS
3 WE ARE NOW DISMISSED FROM THE CASE.

4 THE COURT: YOU DON'T NEED MR. RODRIGUEZ OR
5 MISS BELTRAN; CORRECT?

6 MRS. ROZIER: WELL, I STIPULATE THAT I
7 DON'T -- YES, THAT'S EXACTLY RIGHT. BUT ~~THIS WAS MADE~~
8 ~~BEFORE THE 14TH OF DECEMBER. BEFORE THE DISMISSAL~~ --

9 THE COURT: STOP, STOP. TODAY YOU DON'T NEED
10 MISS BELTRAN OR MR. RODRIGUEZ.

11 MRS. ROZIER: NO, I DO NOT; I, KAREN, DON'T.

12 THE COURT: OKAY. THEY'RE GONE.

13 MR. LEE: OKAY.

14 THE COURT: DO YOU HAVE ANYBODY ELSE OR THERE'S TWO
15 OTHERS?

16 MR. LEE: NO, YOUR HONOR.

17 NOW, WILL THE COURT ISSUE A MINUTE ORDER AS TO
18 THIS OR SHOULD WE JUST -- THAT'S ON THE RECORD.

19 THE COURT: OH, BOY, NOT ONLY WILL WE HAVE A MINUTE
20 ORDER BUT WE HAVE HAVE A TRANSCRIPT THAT'S GOING TO BE SO
21 LONG.

22 MR. LEE: I JUST WANT TO BE ABLE TO TELL MY CLIENTS
23 THAT THIS CASE IS SETTLED AS TO THEM; THAT THEY'RE GONE
24 AND THERE'S CERTAINTY AS TO THAT. THAT'S THE ONLY THING
25 I WANTED. BECAUSE THERE'S BEEN SOME OBVIOUS CONFUSION AS
26 TO WHO THE PARTIES ARE.

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1 MRS. ROZIER: BUT HE ACTUALLY WANTED DAVID TO
2 DISMISS. ~~I ALREADY DISMISSED~~ HIS CONCERN WAS BECAUSE
3 OF DAVID.

4 THE COURT: WE'RE TALKING ABOUT JUST THIS ONE CASE.

5 MRS. ROZIER: ~~IN JUST THIS CASE I ALREADY DISMISSED~~
6 ~~AGAINST HIS CLIENTS.~~

7 THE COURT: WELL, TODAY WE ARE ACKNOWLEDGING A
8 DIFFERENT-LOOKING CAPTION.

9 MRS. ROZIER: EXACTLY. I'VE ALREADY DISMISSED.
10 BUT HIS CONCERN WAS, BECAUSE DAVID WAS ALSO A PLAINTIFF,
11 THAT HE WANTED DAVID TO DISMISS. SO I BELIEVE --

12 THE COURT: WELL, ~~ON THIS COMPLAINT THE ONLY~~
13 ~~PLAINTIFF IS KAREN ROZIER.~~

14 MRS. ROZIER: YES.

15 MR. LEE: FROM TODAY GOING FORWARD.

16 THE COURT: YES.

17 MRS. ROZIER: OKAY.

18 MR. LEE: I JUST WANTED THAT TO BE CLEAR.

19 THE COURT: OKAY. ALL RIGHT. SO -- OKAY. AND
20 THEN AS TO YOUR CLIENTS THE MOTION IS MOOT.

21 MR. LEE: YES, YOUR HONOR. THANK YOU VERY MUCH.

22 THE COURT: CHECK.

23 OKAY, LET'S MOVE ON, THEN. THEN WE HAVE THE
24 SECOND-AMENDED COMPLAINT BY GMAC AND U.S. BANK. WHY DO
25 WE HAVE GMAC WHEN I DON'T SEEM TO HAVE GMAC HERE?

26 MR. SHAHAM: WELL, ~~GMAC HAS NOW BEEN DISMISSED,~~ SO

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22

1 THAT'S MOOT.

2 THE COURT: OKAY.

3 MR. SHAHAM: AND SO U.S. BANK --

4 THE COURT: AND SO THIS MOTION, THIS DEMURRER, GOES
5 FORWARD ONLY AS TO U.S. BANK.

6 MR. SHAHAM: AND WE'LL SUBMIT ON THE TENTATIVE AS
7 TO THE DEMURRER, YOUR HONOR.

8 THE COURT: AND DID YOU READ THE TENTATIVE?

9 MRS. ROZIER: I DON'T UNDERSTAND WHAT THAT MEANS.
10 BUT THE WAY I UNDERSTAND IT IS I CAN GO FORWARD WITH THE
11 WRONGFUL COMPLAINT -- WITH THE WRONGFUL FORECLOSURE.

12 THE COURT: YOU CAN GO FORWARD PURSUANT TO THE --
13 THERE WAS A DEMURRER BROUGHT, THIS MOTION.

14 MRS. ROZIER: YES.

15 THE COURT: A MOTION THAT SAYS, EVEN IF YOUR
16 COMPLAINT STANDS AS IT IS, IT'S NOT -- IT'S NOT GOOD.
17 OKAY. HOWEVER, WHAT I HAVE DONE IS MAKE SOME RULINGS ON
18 THAT. SO I THINK ON A COUPLE OF THEM, ANYWAY, YOU HAVE
19 AN OPPORTUNITY TO AMEND. IS THAT CORRECT?

20 MRS. ROZIER: AND ESSENTIALLY MY CONCERN IS -- WHAT
21 I DON'T UNDERSTAND IS BANK OF AMERICA -- AGAIN BANK OF
22 AMERICA, WHEN I LOOK AT -- THEY PUT IN THIS RECISION,
23 WHICH IS WHAT THEY ENTERED AS I TOOK EXCEPTION TO
24 JUDICIAL NOTICE FOR THE CONTENTS. SO THEY DID PUT IN
25 THIS DOCUMENT BUT BANK OF AMERICA ALSO PUT IN THE
26 DOCUMENT INTO EVIDENCE FOR JUDICIAL NOTICE, AND ON THAT

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23

1 DOCUMENT IT SAYS THAT AS OF OCTOBER 4TH THAT (AS READ):

2 "BANK OF AMERICA, NATIONAL ASSOCIATION AS
3 SUCCESSOR BY MERGER TO LASALLE BANK --"

4 THE COURT: NOT SO FAST. THE COURT REPORTER IS
5 TRYING TO TAKE DOWN EVERYTHING YOU SAY.

6 MRS. ROZIER: THAT:

7 "BANK OF AMERICA, NATIONAL ASSOCIATION AS
8 SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL
9 ASSOCIATION AS TRUSTEE RAMP 2007RP1, IS THE
10 BENEFICIARY OF RECORD UNDER THE DEED OF TRUST
11 BY VIRTUE OF ASSIGNMENT OF BENEFICIAL INTEREST
12 RECORDED. BANK OF AMERICA --

13 THE COURT: WE JUST WENT THROUGH ALL OF THAT JUST A
14 FEW MINUTES AGO.

15 MRS. ROZIER: WHICH IS WHY I DON'T WANT TO DISMISS
16 BANK OF AMERICA FROM THIS COMPLAINT, BECAUSE THAT'S WHAT
17 I DON'T UNDERSTAND.

18 MR. SHAHAM: SHE HASN'T, YOUR HONOR.

19 THE COURT: RIGHT. BANK OF AMERICA IS STILL IN
20 THERE. HOWEVER, THEY ARE ESSENTIALLY U.S. BANK.

21 MRS. ROZIER: WHICH IS NOT WHAT BANK OF AMERICA HAS
22 INDICATED TO ME IN THEIR CORRESPONDENCE TO ME. SO --

23 THE COURT: OKAY. WE HAVE COUNSEL FOR U.S. BANK
24 THAT SAYS THAT THEY ARE HERE AND IN THE SHOES OF BANK OF
25 AMERICA.

26 MRS. ROZIER: COUNSEL FOR U.S. BANK IS SAYING THAT

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24

1 I SHOULD NEVER HAVE SUED BANK OF AMERICA FOR WHAT THEY
2 DID BECAUSE U.S. BANK OWNED THE LOAN. ~~WHAT I'M CLAIMING~~
3 ~~IS, YOU'RE RIGHT, U.S. BANK. IF YOU HAD WHATEVER~~
4 ~~INTEREST YOU HAD, BANK OF AMERICA HAD NO RIGHT TO COME TO~~
5 ~~MY HOUSE, KNOCK ON MY DOOR AND SCARE ME. THAT HAD~~
6 ~~NOTHING TO DO WITH U.S. BANK.~~

7 THE COURT: OKAY. YOU'VE GOT ONE CAUSE OF ACTION
8 THAT'S REMAINING. THEY'RE GOING TO ANSWER. AND -- IS
9 THAT CORRECT?

10 MR. SHAHAM: CORRECT, YOUR HONOR.

11 THE COURT: OKAY. THEN WE MOVE FORWARD.

12 MR. SHAHAM: SHALL WE ANSWER WITHIN, YOUR HONOR,
13 SHALL WE ANSWER WITHIN -- HOW MANY DAYS?

14 THE COURT: HOW MANY DAYS DO YOU NEED? TEN DAYS?

15 MR. SHAHAM: CAN I HAVE TWENTY, YOUR HONOR? I
16 HAVE --

17 THE COURT: DO YOU HAVE ANY PROBLEM WITH HIM HAVING
18 TWENTY DAYS?

19 MRS. ROZIER: ~~ACTUALLY, I NEED -- IF I'M ADDING~~
20 ~~U.S. BANK --~~

21 MR. SHAHAM: TEN IS FINE.

22 MRS. ROZIER: ~~IF I'M ADDING U.S. BANK --~~

23 THE COURT: ~~YOU'RE NOT ADDING U.S. BANK. THEY'RE~~
24 ~~HERE.~~

25 MRS. ROZIER: ~~THEY WERE NEVER THERE WHEN I~~
26 ~~SUBMITTED THE COMPLAINT AND I DIDN'T PUT ANY ALLEGATIONS~~

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1 ~~AGAINST U.S. BANK. I HAVE LOTS AND LOTS OF FACTUAL~~
2 ~~ALLEGATIONS AGAINST U.S. BANK AND I DID NOT INCLUDE THEM~~
3 ~~AGAINST U.S. BANK BECAUSE I WAS NOT SUING U.S. BANK. IF~~
4 ~~I'M NOW GOING TO BE FORCED TO SUE U.S. BANK --~~

5 THE COURT: THEY'RE NOT APPEARING AS U.S. BANK.
6 THEY'RE APPEARING AS BANK OF AMERICA, ESSENTIALLY.

7 MRS. ROZIER: ~~THEY'RE APPEARING -- THEY'RE~~
8 ~~CLAIMING, I'M U.S. BANK AND I HAVE THE RIGHT TO SUE, AND~~
9 ~~IF THEY'RE MAKING THAT CLAIM, THEN I NEED TO BE~~
10 ~~ALLOWED --~~

11 THE COURT: THEY HAVE THE RIGHT TO SUE?

12 MRS. ROZIER: THEY'RE CLAIMING THEY'RE U.S. BANK
13 AND THEY HAVE THE RIGHT TO FORECLOSE IS WHAT THEY'RE
14 SAYING. ~~I NEVER ONCE SUBMITTED ALL OF THE EVIDENCE THAT~~
15 ~~SHOWS WHY U.S. BANK NEVER HAD THE RIGHT TO FORECLOSE~~
16 ~~AND IF THEY ARE GOING TO BE ALLOWED TO ANSWER THE~~
17 ~~COMPLAINT, I SHOULD BE ALLOWED TO AMEND THE COMPLAINT TO~~
18 ~~MAKE ALL THE FACTUAL ALLEGATIONS AGAINST U.S. BANK AND TO~~
19 ~~FORCE THEM TO ADDRESS THE FACTUAL ALLEGATIONS AGAINST~~
20 ~~U.S. BANK. I DELIBERATELY DID NOT INCLUDE THEM IN THE~~
21 ~~COMPLAINT BECAUSE I WAS ONLY SUING BANK OF AMERICA FOR A~~
22 ~~VERY SPECIFIC ACT THAT BANK OF AMERICA DID.~~

23 THE COURT: WELL, THAT'S NOT REALLY TRUE, BECAUSE
24 YOU ORIGINALLY HAD THEM ON YOUR CAPTION. ONLY TODAY DID
25 YOU CROSS THEM OFF.

26 MRS. ROZIER: BACK WHEN I ORIGINALLY SUED I SUED

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26

1 BANK OF AMERICA AND U.S. BANK.

2 THE COURT: I UNDERSTAND.

3 MRS. ROZIER: I TOLD THEM I SUED BANK OF AMERICA
4 AND U.S. BANK AND GMAC. WHEN BANK OF AMERICA RESCINDED
5 THE FORECLOSURE I DROPPED U.S. BANK AND I DROPPED ALL OF
6 THE STUFF FROM U.S. BANK, BECAUSE I WAS ONLY GOING AFTER
7 BANK OF AMERICA IN THE SERVICE FOR THE WRONGFUL
8 FORECLOSURE.

9 THE COURT: OKAY. WERE YOU IN THE CASE AT THAT
10 POINT? YOU DIDN'T HAVE ANY INTEREST IN THIS PROPERTY AT
11 THAT POINT, DID YOU?

12 MR. SHAHAM: YOUR HONOR, WE MADE OUR FIRST
13 APPEARANCE IN THIS CASE I BELIEVE BACK IN DECEMBER OR
14 NOVEMBER OF LAST YEAR.

15 IF I COULD MAKE THINGS EASIER, AS I'M TRYING TO
16 DO HERE --

17 MRS. ROZIER: HE'S NOT.

18 MR. SHAHAM: YOU CAN TELL ME I'M WRONG HERE, IF THE
19 PLAINTIFF -- THE ONLY CLAIM LEFT IS WRONGFUL FORECLOSURE.

20 THE COURT: CORRECT.

21 MR. SHAHAM: IF THE PLAINTIFF, JUST KAREN ROZIER,
22 WANTS TO FILE A THIRD-AMENDED COMPLAINT AGAINST WHOEVER,
23 AND THE ONLY CLAIM THAT WOULD BE IN THE THIRD AMENDED
24 COMPLAINT IS WRONGFUL FORECLOSURE, I'M WILLING TO
25 STIPULATE THAT IF THE COURT WILL ALLOW THAT AND THE
26 PLAINTIFF CAN DO THAT IT WILL AGAIN MAKE THINGS NICE AND

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27

1 CLEAN AND EASIER, YOUR HONOR.

2 THE COURT: OKAY. IS THAT WHAT YOU'RE ASKING TO
3 DO?

4 MRS. ROZIER: YES.

5 MR. SHAHAM: NEXT STEP, YOUR HONOR, IS IF SHE IS
6 GOING TO BE ALLOWED TO, THERE'S OBVIOUSLY A DEADLINE FOR
7 HER TO DO THAT, BUT THERE IS A SEPTEMBER 20 TRIAL DATE.

8 THE COURT: WELL, WE'LL DEAL WITH THAT.

9 MR. SHAHAM: WE'LL FIX ALL THAT STUFF. GREAT,
10 THAT'S IT.

11 THE COURT: SO THEN THE NEW RULING IS YOU'RE NOT IN
12 IT.

13 MRS. ROZIER: EXACTLY.

14 THE COURT: THE NEW RULING IS, MS. ROZIER, ~~YOU MAY~~
15 ~~FILE A THIRD AMENDED COMPLAINT WITH A PROPER CAPTION AND~~
16 ~~YOU MAY BRING THE CAUSE OF ACTION FOR WRONGFUL~~
17 ~~FORECLOSURE AGAINST U.S. BANK.~~

18 MR. SHAHAM: AND ONLY WRONGFUL FORECLOSURE.

19 THE COURT: YEAH, ONLY WRONGFUL FORECLOSURE.
20 THERE'S NOT ANYTHING ELSE.

21 MRS. ROZIER: WELL, THIS IS JUST --

22 THE COURT: PARDON ME?

23 MRS. ROZIER: YES, ON THE FIRST CASE, YES.

24 THE COURT: OKAY.

25 MRS. ROZIER: ON THE LEAD CASE.

26 THE COURT: OKAY. HOW LONG DO YOU NEED TO DO THAT?